

Novelty Powders



Searching for a Legislative Solution



What are bath salts?

- From the National Institute on Drug Abuse:
 - “The term ‘bath salts’ refers to an emerging family of drugs containing one or more synthetic chemicals related to cathinone, an amphetamine-like stimulant found naturally in the Khat plant.”



Bath Salts in The News

- The US Navy released a PSA January 2013 to warn of the dangers of Bath Salts



The List of Bath Salt Tragedies Grows Almost Daily

Here Are Some That Made the News:

- July 2010, Carey Shane Padgett of Roanoke County, Va., allegedly beat his friend Cara Marie Holley to death. He later claims that he had ingested both bath salts and synthetic marijuana, or spice.
- April 24, 2012: Glendale eighth-grader taken to hospital after smoking 'spice'
- May 25, 2012: Miami: Face eating attack on homeless man*
- May 26, 2012: 18-year old Oliver Smith is found dead near a lake in MI after using K2 as legal and undetectable alternative to smoking pot which he was being counseled to quit. Two weeks later Governor Snyder, flanked by Oliver's parents, signs a bill criminalizing 30 ingredients that could be in spice and bath salts.
- May 30, 2012: Mesa police: Woman accused of driving after ingesting 'bath salts'

The List of Bath Salt Tragedies Grows Almost Daily

Here Are Some That Made the News:

- June 4, 2012: Mesa police: Man on 'bath salts' accused in assault with a fire extinguisher at hospital trying to get into an operating room
- June 5, 2012: Good Morning America: The number of calls to poison centers concerning "bath salts" rose 6,138 in 2011 from 304 in 2010 (As of May 2012, poison centers had already received 1,302 calls so far)
- June 19, 2012: Report on Prescott radio of possible marijuana use turned up two teens in a creek bed with a can of smoke; they stated "It is only spice!"
- June 26, 2012: Waco Texas: Texas man eats dog while on synthetic drugs (K2)
- 2012: Chandler police arrest a man after he was suspected of burning his 5-year old son's hand because he was hallucinating and believed his son was possessed by demons

Sold “legally” in Stores

- Marked “Not For human Consumption”
- Typically sold in small plastic or foil packages
- Sometimes labeled “plant food,” “jewelry cleaner,” or “phone screen cleaner”



Readily Available Online

- Sold online as “ivory wave,” “bloom,” “cloud nine,” “lunar wave,” “vanilla sky,” “white lightening,” etc.
- Some wholesalers are more careful than others in how they word their promotional material and some even refrain from shipping certain items to certain states.



Ivory-Wave.com Product Description

- **IVORY WAVE LEGAL IN USA**

100% LEGAL IN LOUISIANA

100% LEGAL IN FLORIDA

LEGAL IN ALL OTHER USA STATES



- Soothing bath Salts – Relax and soak away IVORY WAVE, Concentrated bath salts, please only use as advised, PLEASE do not use this as SNUFF!!! Add the contents to a hot bath to naturally soften the water which will leave you feeling very soothed and relaxed. This is used to mimic the natural hot springs of the greek sea.

NOT FOR HUMAN CONSUMPTION

Wickedherbals.com FAQ:

- **Q: Is bath salts a powder, what is in it?**

- A: Yes, all our bath salts are powdered. It is our policy **not to disclose or reveal the ingredients or chemical formulations** of our products, since they are **for novelty only** and not for human consumption. We will, however, **tell you what is NOT in them** and you may view the lab reports here.

- **Q: Why did you guys CANCEL my order?**

- A: As with most canceled orders, you probably ordered a certain product, but you're **living in a state where an ingredient in it is prohibited**. That also makes it unlawful for us to ship to you there. It is our policy simply to void these orders. We promptly issue a refund request to your credit card, and then send out the dreaded cancel email. ..

TwistedSpices.com Terms & Conditions

- Our products are **sold for novelty only** and are NOT FOR HUMAN CONSUMPTION (sic).
...**Since Bath Salts and Herbal Blends are not designed for human consumption we will not sell products to anyone if we suspect they are being purchased for human consumption or other recreational use.**
- ...**All products sold by Twisted Spices are sold and intended for use by individuals 18 years or age or older....**
- ...**NO EXCEPTIONS! Buyer agrees that any herbs, herbal blends, bath salts, and or any other products by Twisted Spices are legal to sell and/or purchase in your physical location or point of receipt of shipment.** You agree to use our products for their intended purposes only. ...
- **IF YOU DO ACCIDENTALLY INGEST ANY OF THESE PRODUCTS, IT WOULD BE ADVISABLE TO SEEK MEDICAL ATTENTION (sic).** OUR PRODUCTS: Buyer understands that botanical potpourri products, bath salts, and other products by Twisted Spices are offered for **household use only** and that these products are **not intended for human consumption (i.e. oral consumption or inhalation of smoke/ hot vapors, etc.)**. If you as a Buyer have any medical concerns or questions regarding the use of herbs or herbal blends, bath salts or other products offered by Twisted Spices please consult with a physician....

Bath-Salts-Direct.com

offering a free state-by-state bath salt legal analysis

Check Your State Law

#1 U.S. wholesale and retail legal highs (420) supplier www.bath-salts-direct.com offers actual and up to date herbal highs legitimacy information for every state at no cost.

The **controlled substances in question are typically banned or scheduled on a case-by-case basis as the governments catch up with what the latest substance being used is.** However, there can be complications with analog drug acts that are in force on the federal level and several states. **The Federal Analog Act is a law that has serious concerns with its vague language along with the serious weakness of being limited to banning substances intended for "internal use".** Typically, there is no law for a specific license to sell bath salts, plant feeders, incense, or potpourri among the states. These goods are too prolific for effective enforcement of licenses. The common practice is to ban the substances in the goods. These can be identified by chemical tests and is a lot less burdensome than asking every general goods store to have a license for a handful of products.

Please note, Check law section is updated periodically. Last updated on 3 Jan 2013.

Bath-salts-Direct on Arizona

lists over 130 “legal” products

ARIZONA

LATEST BILL:

Bill No: HB2356, Action: 2012-02-17 - Governor Signed, [Link](#)

Our herbal blends, bath salts and pills are completely compliant to Arizona state laws and Federal laws and possession, sale, import, export below mentioned products is completely lawful:

Product Name	Product Name
AMH-CO MIND BLISS 1	BLISS 2
AMH-CO MELLOW MADNESS 1	BLISS 3
AMH-CO BLISS ULTRA 1	BLISS ULTRA 2
AMH-CO BLISS ULTRA 3	BLISS ULTRA 5
AMH-CO BLISS ULTRA EXTREME 1	IVORY DOVE 2
AMH-CO EXTREME BLISS 1	IVORY DOVE 3
AMH-CO SERENITY 1	IVORY DOVE ULTRA 2
AMH-CO RED Doves 2	IVORY DOVE ULTRA 3
AMH-CO RED Doves 4	IVORY DOVE ULTRA 5
AMH-CO ROCKET FUEL ULTRA 2	MIND CHARGE 2
AMH-CO ROCKET FUEL ULTRA 4	MIND CHARGE 3
AMH-CO DUMBLO XXX EXTREME 3	MIND CHARGE ULTRA 2
AMH-CO BLUE Doves ORIGINAL 3	MIND CHARGE ULTRA 3
AMH-CO Doves ORIGINAL 3	QUICK SILVER 2
AMH-CO BLUE Doves ULTRA	QUICK SILVER 3
AMH-CO Doves ULTRA 3	QUICK SILVER ULTRA 2
AMH-CO DYNAMITE N-R-O ULTRA 2	QUICK SILVER ULTRA 3
AMH-CO DYNAMITE N-R-O ULTRA 4	AMH-CO OCEAN SNOW 2
AMH-CO BLUE EXOTIC ULTRA	AMH-CO OCEAN SNOW 3
AMH-CO EXOTIC ULTRA 2	AMH-CO OCEAN SNOW ULTRA 2
AMH-CO EXOTIC ULTRA 4	AMH-CO OCEAN SNOW ULTRA 3
AMH-CO HEAD RUSH ULTRA 2	AMH-CO RECHARGE 2
AMH-CO HEAD RUSH ULTRA 4	AMH-CO RECHARGE 3
AMH-CO HYPER X ULTRA 2	AMH-CO RECHARGE EXTRA 2
AMH-CO HYPER X ULTRA 4	AMH-CO RECHARGE EXTRA 3
AMH-CO SPACE TRIPS 2	LUNAR WAVE 2
AMH-CO SPACE TRIPS 4	LUNAR WAVE 3
AMH-CO SPACE TRIPS 6	LUNAR WAVE EXTRA 2
AMH-CO SPEED FREAK ULTRA 2	LUNAR WAVE EXTRA 3
AMH-CO SPEED FREAK ULTRA 4	AMH-CO SEXTACTY 2
AMH-CO BLUE X-TACY ULTRA 2	AMH-CO SEXTACTY 3
AMH-CO X-TACY ULTRA 4	AMH-CO SEXTACTY ULTIMATE 2
BLUE DUMBLO XXX	AMH-CO SEXTACTY ULTIMATE 3
DUMBLO XXX 3	VANILLA SKY 2
ESBLAST 2	VANILLA SKY 4
ESBLAST 4	AMH-CO OCEAN BURST RED 2
EXTO 2	AMH-CO OCEAN BURST RED 3
EXTO 4	AMH-CO OCEAN BURST RED EXTREME 2
EXOTIC SUPER STRONG 3	AMH-CO OCEAN BURST RED EXTREME 3
EXOTIC SUPER STRONG 4	IVORY WAVE 2
BLUE MIND CANDY	IVORY WAVE 3
MIND CANDY 2	IVORY WAVE ULTRA 2
NEURO TRANCE 2	IVORY WAVE ULTRA 4
NEURO TRANCE 4	IVORY WAVE ULTRA 5
SPEED RUSH 2	VANILLA SKY 3
SPEED RUSH 4	VANILLA SKY 5

BLUE MIND CANDY	IVORY WAVE ULTRA 3
MIND CANDY 2	IVORY WAVE ULTRA 4
NEURO TRANCE 2	IVORY WAVE ULTRA 5
NEURO TRANCE 4	IVORY WAVE ULTRA 6
SPEED RUSH 2	VANILLA SKY 2
SPEED RUSH 4	IVORY WAVE 2
S-REP 2	IVORY WAVE 3
S-REP 4	IVORY WAVE ULTRA 2
AMH-CO DUMBLO XXX EXTREME 3	IVORY WAVE ULTRA 3
AMH-CO Doves ORIGINAL 1	IVORY WAVE ULTRA 4
NEURO TRANCE 3	IVORY DOVE 2
S-REP 3	IVORY DOVE 3
SPEED RUSH 3	IVORY DOVE ULTRA 2
AMH-CO HYPER X ULTRA 3	IVORY DOVE ULTRA 3
AMH-CO DYNAMITE N-R-O ULTRA 5	IVORY DOVE ULTRA 4
AMH-CO RED Doves 3	AMH-CO OCEAN SNOW 4
AMH-CO SPACE TRIPS 3	AMH-CO OCEAN SNOW ULTRA 2
AMH-CO SPEED FREAK ULTRA 3	AMH-CO SEXTACTY 4
AMH-CO Doves ULTRA 1	AMH-CO SEXTACTY ULTIMATE 4
AMH-CO X-TACY ULTRA 1	AMH-CO SEXTACTY ULTIMATE 5
MIND CANDY 1	VANILLA SKY 1
	BLISS 4
	BLISS ULTRA 4
	IVORY DOVE 4
	IVORY DOVE ULTRA 4
	MIND CHARGE 4
	QUICK SILVER ULTRA 4
	QUICK SILVER ULTRA 5
	AMH-CO RECHARGE 1
	AMH-CO RECHARGE EXTRA 1
	LUNAR WAVE 1
	LUNAR WAVE EXTRA 1

Responses to Date – Federal Law

- Prior to 2010, synthetic cannabinoids were not controlled by any state or at the federal level.
- In March 2011, 5 synthetic cannabinoids were temporarily categorized as Schedule I substances under the CSA. The ban on these 5 substances was set to expire in March 2012.
- October 2011: Bath Salts are added to Schedule I for one year on a temporary basis by DEA. The Comprehensive Crime Control Act of 1984 (21 USC 811) authorizes the AG (delegated to the DEA) to temporarily Schedule new materials if “necessary to avoid imminent public hazard.

Responses to Date – Federal Law

- The Synthetic Drug Control Act (HR 1254) was approved by the House of Representatives on December 8, 2011.
- On June 27, 2012 the Senate included three bills relating to synthetic substances – S. 409 (Bath Salts), S. 605 (Synthetic Marijuana) and S. 839 (Synthetic Hallucinogens) – as part of the Food and Drug Administration Safety and Innovation Act permanently adding 31 substances to the Schedule I.
- In July 2012, President Obama signed legislation permanently making 2 of 3 common synthetic cathinones—mephedrone and MDPV—illegal along with several other synthetic drugs often sold as marijuana substitute, “Spice.”

Responses to Date

a random sample of other states

- **Florida:** Representative Greg Evers' R-Baker County is looking into legislation to ban the base compounds in the synthetic drugs (reportedly purchased from China and India). Once those are banned, subtle tweaks in the drug's makeup won't make it legal again. To date, bath salts are still legal.
- **Georgia:** Synthetic marijuana, outlawed in April but reappearing when manufacturers altered its molecular structure, is once again illegal following an emergency ruling Tuesday by the Georgia State Board of Pharmacy.
- **Alabama:** added 2 substances to the controlled substances list by an emergency measure in 2011 to ban two of the dangerous chemicals used in bath salts: MDPV (considered to be a chemical analogue of the controlled substance Cathinone) and mephedrone (considered to be a chemical analogue of the controlled substance Methcathinone).

Responses to Date

a random sample of other states

- **Ohio & Louisiana:** banned analogs of synthetics of specific substances unless contained in a legitimate pharmacological product.
- **New York State:** March 2012, S1834 banned all synthetic cannabinoids (marijuana) by imposing a \$500 civil penalty for the sale and is considering a measure to criminalize both synthetic cannabinoids and cathinones by adding them to the controlled substances act.
- **Oregon:** Empowers Board of Pharmacy to schedule synthetic materials; state petitions the Board to schedule an entire class of cannabinoids and cathinones – State officials report no known instances of retail sales. Alabama gave similar authority to Pharmacy Board.

Arizona's Response

- **2011:** Spice added to Title 36 Controlled Substances list and Title 13
- **January 2012:** Cottonwood adopts its own Bath Salts ordinance (Subsequently superseded by state law)
- **March 2012:** Town of Payson adopts an ordinance addressing product misuse:

PRODUCTS INTENTIONALLY MISUSED FOR OBTAINING A HIGH, HALLUCINOGENIC, PSYCHOACTIVE, PSYCHOTROPIC, OR MIND ALTERING EFFECT; PROHIBITION OF SALE OR POSSESSION FOR SALE.

It is **unlawful** for any person to possess for **sale**, offer for sale, or sell any **product** that is **not intended or labeled for human consumption, knowing or having reason to know** that the purchasers and/or end users of such product **commonly** intentionally **misuse** such product.

(1) INTENTIONAL MISUSE OF A PRODUCT means the consumption, ingestion, smoking, or other introduction of a product into the human body for the purpose of obtaining a high, hallucinogenic, psychoactive, psychotropic, or other mind altering effect.

(2) If an employee of the federal, state, county, or local **government**, acting in his/her official capacity, **provides a person with information documenting the common intentional** misuse of a product, such **person shall be deemed to know** or have reason to know of the common intentional misuse of the product.

Arizona's Response

- April 2012: Charges dropped after a February raid by the Partners Against Narcotic Trafficking (PANT) task force (27 uniformed and undercover officers) in a well-publicized bust of five area shops they claimed were selling synthetic drugs. They seized packages labeled *Eight Ballz*, *Amped* and *Black Ice*. Chief Deputy County Attorney Dennis McGrane said that, although preliminary drug tests done on the substances while in the field indicated positive results, they aren't admissible at trial; the full tests completed at the DPS crime lab came back negative.
- May 2012: Yavapai County: “Synthetic Drug Community Protection Agreement” available to retail outlets, convenience stores/markets, requires they cease selling any form of a synthetic drug now and in the future, and relinquish current synthetic drug inventory to the Sheriff’s Office for destruction in exchange for assurance from the County Attorney’s Office that charges will not be sought for any sales occurring prior to the date of signature.

Arizona's Response

Yavapai County

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Arizona's Response

Yavapai County

- Following the Agreement, the Yavapai County Attorney's Office began seeking and obtaining a permanent injunction against the sale of synthetic drugs by specified retailers, including 196 pages of pleadings and affidavits from family/community members, emergency room doctors and nurses, substance abuse professionals, guidance counselors, first responders, Arizona Poison and Drug Information Center personnel, DEA officials, therapists, and law enforcement.
- A Judge granted the *permanent injunction*, banning all known retailers from selling synthetic drugs in the County
- The 12-page ruling declared "spice" and "bath salts" a public nuisance.
- The injunction banned all identified retailers and property landlords from possessing, acquiring, selling, or transferring the dangerous synthetic drugs

Arizona's Response

- **January 2013:** HB 2327 Introduced as an attempt to ban the backbone chemicals of the major categories of synthetic drug substances.



- Changing a simple molecule to create an unregulated substance will not require a whole new statute each time.
- Supporters believe this will remove these drugs from the retail shelves.

Issues

- **Problem 1:** Nomenclature: synthetic drugs/spice/K2/bath salts/eightballz/glass cleaner, etc.
 - Preferred term: **Novelty Powders** communicates what they are and that they have no legitimate purpose. This is the term used in the retail industry.
- **Problem 2:** Tracking the actual materials:
 - Cannabinoids (chemical marijuana-K2, Spice, “herbs”)
 - Cathinones (chemical amphetamines – bath salts)
 - **Originally made in a laboratory** at Clemson University by a college professor who could not possess actual marijuana to study the effects, (his initials are on the materials: i.e, JWH 100) the idea to synthesize was born. There are legitimate studies and patents for medications using these materials. However, enterprising, amoral people started manufacturing and marketing the materials as a “legal high”. **Because the packaging is marked “Not for human consumption” they avoid the FDA regulations.**
 - **Each time a new chemical is created in a lab there is a process for creating a chemical standard** that is published to the chemistry industry. Materials tested by crime labs must be compared to the standard. **Until they obtain a standard there is no way to prove that the tested material is a certain thing.** *[On June 27 it was announced that in the Florida cannibal case no synthetic drugs were found. However, that should have come with the caveat-that we are currently aware of and able to test.]

Issues

- **Problem 3:** New materials get invented and circulated before the standard is distributed.
 - This gives the retail industry a generous head start.
- **Problem 4:** There are literally 10s of 1000s of iterations that can be produced
 - and they are moving to other types of drugs such as synthetic psilocybin.
- **Problem 5:** Never having been tested on humans, the effects are unknowable,
 - but anecdotally we know that in many cases these drugs are far more addictive than organic versions. One identified cannabinoid is said to be 100 times stronger than its organic counterpart. Many users have noted their instant addiction and inability to stop.

Issues

- **Problem 6:** Parents are in the dark

- and kids think to themselves "It is legal so it cannot be that bad." There is no way to really know what is in the package that is being sold. A recent protest in a North Phoenix neighborhood centered on marijuana paraphernalia-these solidly middle class people were completely unaware of the novelty powder problem. Yavapai discovered in seizing packets from retailers looking for spice that most of the materials seized were unidentifiable.

- **Problem 7:** The ready availability impacts persons in recovery.

- Drug Court alumni report that in recovery one of the biggest challenges is avoiding these "legal" highs.

- **Problem 8:** There is a void for assigning responsibility;

- should this be a statutory issue, a criminal issue, a moral issue-does our society agree that the right to make money transcends the other prong of the social contract to do no harm?

Solutions

There is no silver bullet; this will likely take a patchwork of approaches to eradicate, but it is clear that the distribution is the point at which we should focus. Here are some options to consider, each having their attendant pluses and minuses:

- **1: Revisit the statutory approach** to get away from the case-by-case listing of the drugs. Organic versions are already listed therefore it should be relatively easy to follow the lead of some other states who have added the synthesized versions of the organics by class to the lists or have classified the base chemicals as illegal. Analog statutes are another option but may present their own legal issues.
- **2: Revise the Pharmacy Board approach** to create a civil penalty for sale without a pharmacist as New York has done. The question would be one of enforcement as it would be an administrative rather than a law enforcement approach.
- **3: Launch an intensive public education campaign** on the scale of the ADHS Anti-tobacco program to make parents, children and the general public aware of the issue as a public service announcement, rather than piece meal through scattered media accounts of horrific events.

Solutions

•4: **Put public pressure on the retailers** to voluntarily remove the material from their shelves and websites. This concept could take several forms including following the lead of Yavapai with the Community Safety Agreements, public statements and possible lawsuits. [The Town of Payson was considering an ordinance that would hold a retailer responsible when someone was harmed by human consumption in violation of the label under the logic that because these have no other use it is a fallacious stance to hide behind a label warning in a sale when the real facts are known to the seller.] This could also include lawsuits for damages against retailers under tort theories.

Solutions

- 5: Declare these materials a public nuisance:
- 13-2917. A. It is a public nuisance, and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal, for anything:
 - 1. To be injurious to health, indecent, offensive to the senses or an obstruction to the free use of property that interferes with the comfortable enjoyment of life or property by an entire community or neighborhood or by a considerable number of persons.
- C. The county attorney, the attorney general or the city attorney may bring an action in superior court to abate, enjoin and prevent the activity described in subsections A and B of this section.
- See also § 36-602; 36-11-615; 12-802; 12-990 and pursue abatement orders against the retailers. (See also § 36-1966; -1996 prohibiting sale of misbranded substance.)

Solutions

- #6: Your ideas?
- Additional sources: <http://www.spin.com/articles/bathlands-deep-heart-americas-new-drug-nightmare>
- Presented by Kim MacEachern, Staff Attorney Arizona Prosecuting Attorneys' Advisory Council June 2012